

REMARKS

In the Office Action dated March 11, 2003, the Examiner reopened prosecution after the filing of the Appeal Brief. The Examiner maintained the same rejection of claims 1-3 and 8-13 that was made in the final rejection dated April 10, 2002, but provided a response to the arguments in the Appeal Brief traversing that rejection. This rejection of claims 1-3 and 8-13 is under 35 U.S.C. §102(b) as being anticipated by Edelstein. Additionally, claims 1, 3-10 and 13 were rejected under 35 U.S.C. §102(b) as being anticipated by Mansfield.

These rejections are respectfully traversed for the following reasons.

First, as to the Edelstein reference, the Examiner has provided a drawing indicating, with the letters A and B, how the Examiner is interpreting the Edelstein reference so that claim 1 reads thereon. This is already the understanding that the Applicants had as to the manner by which the Examiner is applying this reference, and Applicants believe the arguments in the Appeal Brief contesting this interpretation are still valid, namely that this interpretation is inconsistent with the terminology used in the written disclosure of the Edelstein reference, and is not in conformity with the understanding which those of ordinary skill in the art in the field of antenna design have for the terms "radial" and "radial element." Those arguments need not be repeated herein, however, Applicants maintain that they are sufficient to overcome this rejection.

In response to those arguments, the Examiner stated she is using a definition for the term "radial" from page 962 of Merriam Webster's Collegiate Dictionary, 10th Edition, 1997, namely "developing uniformly around a central axis." Applicants do not believe this definition is inconsistent with the definitions provided by the

Applicants in the 9th Edition of this dictionary, attached to the Appeal Brief. The keyword in the Examiner's definition, however, is "developing. Applicants submit that those of ordinary skill in the art would not consider the width of a strip-like element, as is used to form the respective circumferential (octagon-shaped) elements in Edelstein antenna, as "developing" in a radial direction. Using this definition, even a solid plate could be considered as a "radial element," because an imaginary "radially developing" line could be drawn outwardly from the center of such a solid plate.

Applicants recognize that the Examiner is required to give the broadest reasonable interpretation to every element in a patent claim, however, even under this guideline the Examiner is not permitted to rely on a tortured definition that effectively reduces commonly used English words to a meaningless level.

This is particularly true in the context of an anticipation rejection, wherein the claimed subject matter must be disclosed within the four corners of a document, in order to justify the use of the document as an anticipating reference. This makes it even more important to employ commonly accepted definitions for terms which are well known to those of ordinary skill in the art, rather than extremely unusual and unjustifiable interpretations which have clearly been devised only after reading the present disclosure in order to "force" the claim language to read on a particular reference, such as the Edelstein reference.

Moreover, the Federal Circuit, as indicated in the case citations provided in the Appeal Brief, has relatively strictly defined the information that must be present in an anticipating reference in order for that reference to "disclose" the claimed subject matter against which it is being applied. The Federal Circuit has stated that the

anticipating reference must put that subject matter in the possession of the public, and must do so in an enabling manner. As noted in the Appeal Brief, if Figure 3 of Edelstein reference were the only figure in the present application, and if Applicants attempted to assert that claim 1 of the present application is enabled by such a figure, Applicants believe the Examiner would most certainly disagree, and most likely would reject claim 1 under those circumstances under §112, first paragraph.

Claim 1 has been amended as proposed in the Amendment filed with the original version of the Appeal Brief. That Amendment was not entered because it was stated to raise a new issue, but the Examiner nevertheless subsequently reopened prosecution anyway. By defining current flow also in terms of the radial direction, the Edelstein reference is even less applicable against the subject matter of claim 1, since current in the Edelstein reference clearly flows only circumferentially, and does not flow in the “radial” direction of the Edelstein reference, even given the Examiner’s definition. There is no current flow in the Edelstein reference between surfaces A and B.

The Edelstein reference, therefore, does not disclose all of the elements of claims 1-3 and 8-13 as arranged and operating in those claims, and therefore does not anticipate any of those claims.

Many of the same arguments above apply as well to the rejection based on the Mansfield reference. Applicants submit the Mansfield reference discloses an antenna arrangement having multiple loops, and the Examiner is apparently interpreting these loops as corresponding to the antenna elements of claim 1. The Examiner did not specifically identify locations in the Mansfield structure that the Examiner believes correspond to the claimed element beginning and element end,

but generally referred to a number of figures. If those loops are alleged to conform to the claimed antenna elements, Applicants submit it is most logical to define the element beginning and element end as the respective locations of the negative sign and positive sign at each of those loops, or possibly the locations at which the terminals of capacitor C in each loop connect to the loop conductor. Under either definition, however, the beginning and end at each loop would be at the same radial distance from a center of the arrangement, rather than proceeding outwardly as set forth in claim 1. If some other arbitrary point is selected along the conductor of each loop as allegedly representing a beginning or an end, then the requirement for cyclical symmetry, also set forth in claim 1, would not be satisfied by the Mansfield reference.

The Mansfield reference, therefore, like the Edelstein reference, does not satisfy the relatively rigid requirements set forth by the Federal Circuit for an allegedly anticipating reference. None of claims 1 or 3-10 or 13 is anticipated by the Mansfield reference under the provisions of 35 U.S.C. §102(b).

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

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